

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
FAYETTEVILLE DIVISION**

**JILL DILLARD, JESSA SEAWALD,
JINGER VUOLO, and JOY DUGGAR**

PLAINTIFFS

VS.

NO. 17-CV-05089-TLB

CITY OF SPRINGDALE, ARKANSAS; et al

DEFENDANTS

ANSWER

Comes now the Separate Washington County Defendants, Rick Hoyt, in his individual and official capacities, Steve Zega, in his official capacity only, and Washington County, Arkansas (referred to collectively herein as the “Washington County Defendants”) and for their Answer Plaintiff’s Complaint (Docket #1) do state the following:

1. The Separate Washington County Defendants affirmatively plead that the laws of Arkansas, the laws of the United States, the official governmental and/or police records arising from any investigation or interviews related to 2006 reports of the Plaintiffs’ molestation (and/or any others) by their brother several years prior, the official records of all relevant or referenced state and federal courts, including any records or filings under seal (e.g., FINS petitions), the original 2015 FOIA requests and subsequent disclosures, including redactions, by the City of Springdale and Washington County and/or their employees, the media and internet articles related to the same, and the allegations of the Plaintiff’s Complaint speak for themselves (the Separate Washington County Defendants deny the allegations in the Plaintiff’s Complaint, as set forth herein), and admit that personal jurisdiction and venue are proper in this Court, but deny, as pleaded, the remainder of the allegations, and any contrary allegations, in paragraphs 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15 of the Plaintiff’s Complaint.

2. The Separate Washington County Defendants admit, upon information and belief, the Plaintiffs’ residence assertions in paragraphs 16, 17, 18, and 19 and familial assertions in paragraph 38 of the Plaintiff’s Complaint.

3. The allegations in paragraphs 20, 21, 22, 23, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 46, 47, 48, 55, 56, 57, 58, 62, 63, 64, 65, 86, 87, 88, 89, 90, 91, 93, 94, 95, 96, 97, 98, 99, 100, 109,

110, 111, 112, 113, 114, 122, 123, 124, 125, and 126 of the Plaintiff's Complaint do not appear to be directed toward the Separate Washington County Defendants and therefore require no response from these Defendants; to the extent that the allegations in paragraphs 20, 21, 22, 23, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 46, 47, 48, 55, 56, 57, 58, 62, 63, 64, 65, 86, 87, 88, 89, 90, 91, 93, 94, 95, 96, 97, 98, 99, 100, 109, 110, 111, 112, 113, 114, 122, 123, 124, 125, and/or 126, or any portion thereof, are directed toward the Separate Washington County Defendants, these Defendants affirmatively plead, upon information and belief, that the City of Springdale is a municipal corporation, that Kathy O'Kelley and Ernest Cate were City employees and/or contractors in 2015, and that the original 2015 FOIA requests and subsequent disclosures, including redactions, by the City of Springdale and/or their employees, as well as the laws of Arkansas and of the United States, speak for themselves, but deny, as pleaded, the remainder of the allegations, and any contrary allegations, in paragraphs 20, 21, 22, 23, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 46, 47, 48, 55, 56, 57, 58, 62, 63, 64, 65, 86, 87, 88, 89, 90, 91, 93, 94, 95, 96, 97, 98, 99, 100, 109, 110, 111, 112, 113, 114, 122, 123, 124, 125, and 126 of the Plaintiff's Complaint.

4. The Separate Washington County Defendants affirmatively plead that Washington County is a political subdivision of the State of Arkansas, that Rick Hoyt and Steve Zega are former Washington County employees, and that the laws of Arkansas and of the United States speak for themselves, but deny, as pleaded, the remainder of the allegations, and any contrary allegations, in paragraphs 24, 25, 26, and 27 of the Plaintiff's Complaint.

5. The Separate Washington County Defendants affirmatively plead that the laws of Arkansas, the laws of the United States, the official governmental and/or police records arising from any investigation or interviews related to 2006 reports of the Plaintiffs' molestation (and/or any others) by their brother several years prior, the official records of all relevant or referenced state and federal courts, including any records or filings under seal (e.g., FINS petitions), the original 2015 FOIA requests and subsequent disclosures, including redactions, by the City of Springdale and Washington County and/or their employees, the media and internet articles related to the same (both before and after the disclosures), and the allegations of the Plaintiff's Complaint speak for themselves (the Separate Washington County Defendants deny the allegations in the Plaintiff's

Complaint, as set forth herein), but deny, as pleaded, the remainder of the allegations, and any contrary allegations, in paragraphs 39, 40, 41, 42, 43, 44, 45, 49, 50, 51, 52, 53, 54, 59, 60, 61, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 92, 101, 102, 103, 014, 105, 106, 107, 108, 115, 116, 117, 118, 119, 120, 121, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141 (including all sub-paragraphs), 142, and 143 of the Plaintiff's Complaint.

6. The Separate Washington County Defendants deny Plaintiff's entitlement to any relief, including, but not limited to the relief sought in the unnumbered "Prayer for Relief" in the Plaintiff's Complaint, which "Prayer" is denied, including all sub-paragraphs.

7. The Separate Washington County Defendants respectfully demand a trial by jury on all genuine issues of material fact and join in the Plaintiff's demand for the same.

8. The Separate Washington County Defendants specifically and expressly deny each and every allegation of Plaintiff's Complaint not specifically and expressly admitted herein.

9. The Separate Washington County Defendants assert and reserve the right to file an Amended Answer or other responsive pleading(s) and/or to assert additional affirmative and other defenses after a chance to investigate the claims and allegations in Plaintiff's Complaint.

AFFIRMATIVE DEFENSES

8. The Separate Washington County Defendants assert the following affirmative defenses:

- A. Punitive damages immunity, *see City of Newport v. Fact Concerts, Inc.*, 453 U.S. 247, 69 L.Ed.2d 616, 101 S.Ct. 2748 (1981);
- B. Qualified immunity;
- C. Tort immunity and statutory tort immunity, *see Ark. Code Ann. §21-9-301*;
- D. Sovereign immunity;
- E. Vicarious liability/respondeat superior immunity and statutory vicarious liability/respondeat superior immunity, *see Ark. Code Ann. §21-9-301*;
- F. The Separate Washington County Defendants are not proper parties to a tort action in any event, *see Ark. Code Ann. § 23-79-210*

- G. Justification;
- H. Privilege;
- I. Mootness, as applicable;
- J. Truth;
- K. Waiver/Estoppel/Laches;
- L. Common Defense Doctrine;
- M. Failure of mitigation, as applicable;
- N. No subject matter jurisdiction of wrongful death claim;
- O. The Defendants avail themselves of all applicable defenses under Rules 8 and 12 of the Federal Rules of Civil Procedure;
- P. Any information disclosed was already public;
- Q. The Separate Washington County Defendants adopt and incorporate all defenses raised by all other Defendants;
- R. The Plaintiff has failed to state a claim upon which relief can be granted;
- S. The Defendants avail themselves of all statute of limitations defenses applicable to this claim, including, but not limited to Ark. Code Ann. 16-56-101, *et seq.*;
- T. The Defendants reserve and preserve the right to assert any available counterclaims and/or third-party claims under Ark. R. Civ. Proc. 13 & 14.

WHEREFORE, the Defendants respectfully request that the Complaint be dismissed and for any and all other just and proper relief to which they are entitled.

Respectfully submitted,

Rick Hoyt, in his individual and official capacities,
Steve Zega, in his official capacity only, and
Washington County, Arkansas
Separate Washington County Defendants

Jason E. Owens
Ark. Bar. No. 2003003
JASON OWENS LAW FIRM, P.A.
Mailing Address: P.O. Box 850

Conway, Arkansas 72033-0850

Physical Address: 1023 Main Street, Suite 204

Conway, Arkansas 72032

Telephone: (501) 764-4334

Telefax: (501) 764-9173

email: owens@jowenslawfirm.com